

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONVERGEN ENERGY LLC, et al.,
Plaintiffs,

-v-

STEVEN J. BROOKS, et al.,
Defendants.

Civil Action No. 20-cv-3746 (LJL)

**DECLARATION OF THEODORE HANSEN IN SUPPORT OF DEFENDANTS
CONVERGEN ENERGY WI, LLC'S BRIEF IN OPPOSITION TO PLAINTIFFS'
MOTION TO STAY ARBITRATION**

I, Theodore J. Hansen, under penalty of perjury, do declare and state as follows:

1. I am an adult private person with no legal disabilities. I am a resident of the State of Wisconsin with an address of 798 Terra Cotta Drive, Neenah, Wisconsin 54956. At all times relevant to this case, I was and am the chief executive officer of Convergen Energy WI, LLC, a Delaware limited liability company (hereinafter, "CE-Wisconsin"), a Defendant in this action.

2. I make this declaration on personal knowledge and in my role as CEO of CE-Wisconsin in support of Defendants Brief in Opposition to Plaintiffs' Motion to Stay Arbitration.

3. Attached as Exhibit A is a true and correct copy of the Acquisition Agreement dated January 29, 2020 by and among Nianticvista Energy, LLC, Convergen Energy WI, LLC and Convergen Energy, LLC.

4. Attached as Exhibit B is a true and correct copy of an email, including attachment, from Steven Brooks of Libra Capital US, Inc. to me, carbon copying Bert Diaz of Libra Capital US, Inc., dated November 26, 2019, in which Steven Brooks indicates that Bert Diaz, General Counsel for Plaintiff Libra Capital US, Inc. prepared the supply agreement between Convergen Energy WI, LLC (CEWI) and L'Anse Warden Electric Company, LLC (LWEC). Specifically, Mr. Diaz initiated and drafted the language in the arbitration clause, stating that the parties recognize that

non-performance of the agreement pending a dispute would result in irreparable harm and that arbitration was only process permitted under the Agreement to resolve disputes while both parties continue to perform according to the terms of the Agreement.

5. That as of July 7, 2020, using estimated weights for one shipment in transit, the balance due CE-Wisconsin by LWECC for pellets is in excess of \$500,000.00.

6. LWECC continues to request pellet fuel on a daily basis. CE-Wisconsin has not received a payment for pellet fuel since March 2020, which is an increasing harm to CE-Wisconsin.

7. CE-Wisconsin makes engineered solid fuel pellets from recycled materials which are sold to power plants to generate electricity.

8. LWECC is permitted to use biomass to produce electric power. CE-Wisconsin's engineered solid fuel pellet is one of the few types of fuel LWECC is regulatorily permitted to burn. LWECC sells the generated electricity to primarily to DTE Electric Company and other customers.

FURTHER THIS DECLARANT SAYETH NOT.

Dated: July 7, 2020

By: s/Theodore J. Hansen
Theodore J. Hansen